

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Annual Assessment of the Status of)	MB Docket No. 07-269
Competition in the Market for the)	
Delivery of Video Programming)	

**Comments on behalf of the
Cable and Telecommunications Committee
of the New Orleans City Council**

The Cable and Telecommunications Committee of the New Orleans City Council, through its undersigned counsel, submits these Comments in response to the Supplemental Notice of Inquiry released by the Federal Communications Commission ("FCC" or "Commission") on April 9, 2009.

Statement of Interest

The Cable and Telecommunications Committee of the New Orleans City Council oversees the City Council's regulatory authority over cable and telecommunication matters and makes recommendations to the full City Council concerning cable television and facilities-based video services. The Committee has a compelling interest in any and all matters as relate to competition in the video distribution marketplace.

Discussion

The New Orleans City Council's Cable and Telecommunications Committee appreciates this opportunity to comment in survey form on video programming distributors

and their impact on video competition. However, it is not necessary to conduct a survey to prove that a variety of competitors have substantially reduced, and will continue to reduce, the share of the video distribution marketplace that traditional cable operators serve. In the *Thirteenth Annual Report*, the Commission observed that cable television faces strong competition from two dominant providers, Verizon and AT&T. These local exchange carriers (LECs) have expanded in areas where they provide facilities-based video services.¹ As of December 31, 2008, Verizon's FiOS TV had over 1.9 million subscribers, representing a net gain of 975,000 customers during 2008, and AT&T's U-Verse had 1.045 million subscribers, representing a net gain of 814,000 customers during 2008.² The *Report* documents that cable subscribership has leveled below 60 percent of homes passed in the last several years. Indeed, the Commission estimates that "subscribers to systems with 36 or more channels as a percent of the homes passed by such systems is 56.3 percent [based on the 2005 Price Survey data], compared to 58.8 percent using data from the 2004 Price Survey sample."³ Data from cable operators' Form 325 "shows that this figure [for 2006] is 54 percent," the same percent as reported the previous year.⁴ Under these circumstances, cable subscribership continues to decrease while the market share of dominant local exchange

¹ See Thirteenth Annual Competition Report, *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, FCC MB Docket No. 05-255, 21 FCC Rcd 12229 (2006).

² See Verizon Communications, SEC Form 10-K for the Year Ended December 31, 2008 at II-7, 18; AT&T Corporation, SEC Form 10-K for the Year Ended December 31, 2008 at Sec. 29, Ex. 13, 12.

³ See *Thirteenth Annual Competition Report* at ¶ 40.

⁴ *Id.*

carriers, such as Verizon and AT&T, continues to increase. As discussed below, the Commission's annual video competition reports demonstrate that the diversity of information sources available to cable subscribers is greater today than before.

I. Video Programming Delivery Service

According to the Commission, 95.8 million households, or almost 87 percent of the 110.2 million U.S. households with televisions, subscribed to a multichannel video programming distribution ("MVPD") service in 2006.⁵ MVPD providers include: (1) the incumbent cable television companies, each franchised to serve a distinct geographic area; (2) the two direct broadcast satellite ("DBS") service providers, DirecTV, Inc. and Echostar Communications Corp. (dba "DISH Network"), which have been providing nationwide service for approximately 15 years; and (3) a mix of smaller wireline, wireless, and satellite dish-based service providers operating in various geographic areas.

More recent data suggest that cable's share of subscribers decreased slightly after 2006, while the number of DBS subscribers continue to grow, as did the number of video customers served by local telephone companies.⁶ Many of the alternatives to cable and DBS currently have limited geographic availability. The relatively small nationwide aggregate shares do not reflect the considerably larger market shares individual providers may have in

⁵ *Id.* at 3.

⁶ Subscriber totals for DBS services grew to 30.8 million as of the first quarter of 2008. *See* Press Release, DISH Network, DISH Network Reports First Quarter 2008 Financial Results, May 13, 2008, *available at* <http://dish.client.shareholder.com/releasedetail.cfm?releaseID=309956> (13.8 million subscribers as of end of 1st Quarter 2008); Press Release, DIRECTV Group, The DIRECTV Group Announces First Quarter 2008 Results, at 3, May 7, 2008, *available at* http://files.shareholder.com/downloads/DTV/328103421x0xx193985/58be3faf-803f-4ef5-b350-10e42e33552c/DTV_News_2008_5_7_General_Releases.pdf ("*DIRECTV 1st Q Press Release*") (17 million subscribers as of end of 1st Quarter 2008).

the geographic areas where they operate.

The most significant development in regard to MVPD in the past three years is entry by the principal local telephone companies. Although incumbent telephone companies still account for only about 1.5 percent of all nationwide MVPD subscribers, the number of subscribers will increase as the telephone companies deploy their video-capable networks in additional areas of their service regions. Where incumbent local exchange carriers ("ILECs") have entered, they have often achieved considerable success.

Verizon Communications, Inc., for example, is spending \$23 billion to roll out its fiber-to-the-home ("FTTH") network, "FiOS," over which it delivers MVPD service as well as telephony and broadband Internet access.⁷ Verizon first introduced its FiOS service in Keller, Texas, in September 2005.⁸ Since then Verizon has gradually rolled out its FiOS service in sixteen states throughout its local telephone service area. It is projected to reach 18 million homes and businesses by 2010.⁹ By the end of January 2008, Verizon had approximately one million FiOS video customers, representing 17 percent of the six million homes to which it then marketed its video service.¹⁰ In the areas where Verizon has been

⁷ Thorne, Symposium Transcript ("Tr.") at 17. (All references to transcript pages refer to the Symposium transcript unless otherwise noted.) The Symposium record, including agenda, presentations, and written submissions, is available on the Department of Justice's website at <http://www.usdoj.gov/atr/public/hearings/telecom2007/index.htm>.

⁸ Twelfth Annual Report, *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, FCC MB Docket No. 05-255, 21 FCC Rcd 2503, 2508 (rel. Mar. 3, 2006).

⁹ Written Comments on Behalf of Verizon Communications Corp., for inclusion in the 2007 DOJ Telecommunications Symposium, Nov. 20, 2007, at ii, 1 ("*Verizon Submission*").

¹⁰ Supplemental Submission of Verizon, re: 2007 DOJ Telecommunications Symposium, Feb. 19, 2008, at 9 ("*Verizon Supp. Submission*").

marketing its FiOS video service the longest, its penetration rate (the percentage of customers to whom a service is available that subscribe to the service) is as high as 30 percent.¹¹ Analysts predict that 25 percent of customers that can subscribe to Verizon's FiOS service will do so by the end of 2009.¹²

AT&T, Inc. is deploying a hybrid FTTH and fiber-to-the-neighborhood or node ("FTTN") network over which it offers MVPD and other services to residential customers under the brand name "U-Verse."¹³ AT&T reportedly plans to spend between \$4.5 and \$6.5 billion on U-Verse to reach 17 to 18 million households by the end of 2008.¹⁴ As of the third quarter of 2007, it already passed about 5.5 million households with U-Verse services (that is, had facilities in place to make services available at those locations).¹⁵ AT&T intends to reach 30 million homes by the end of 2010.¹⁶ By the end of the first quarter of 2008, AT&T's total number of U-Verse TV video subscribers reached 379,000, putting AT&T on track to reach its target of one million subscribers by the end of 2008.¹⁷ On average, AT&T has

¹¹ *Id.* See also Letter from Hal J. Singer, President, Criterion Economics, LLC, to Yvette Tarlov, Antitrust Division, U.S. Dep't of Justice, re: Questions for Panel 1, Jan. 7, 2008, at 2 ("*Singer Supp. Comments*").

¹² *Verizon Supp. Submission*, at 9.

¹³ Nat'l Telecomm. & Info. Admin., *Networked Nation: Broadband in America 2007*, at 25 (Jan. 2008) ("*NTIA Broadband Report*").

¹⁴ *NTIA Broadband Report*, at 25, 34; *AT&T Says costs Rise for TV System's Launch*, WALL ST. J., May 8, 2007, at B4.

¹⁵ *NTIA Broadband Report*, at 25.

¹⁶ AT&T, 2007 Annual Report (2008), at 4, available at http://www.att.com/Investor/ATT_Annual/downloads/07_ATTar_FullFinalAR.pdf.

¹⁷ Press Release, AT&T, AT&T Ramps Revenue Growth, Delivers Strong First-Quarter Results, Apr. 22, 2008, available at <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=25526>.

achieved a 7.3 percent penetration rate for video three to six months after entry, and a 13.4 percent video penetration rate one year after entry, in the areas where it provides video service.¹⁸

Rural ILECs are also entering the video business. The National Telecommunications Cooperative Association (“NTCA”), a trade association for rural local telephone companies, believes that 63 percent of its members already offer video.¹⁹ This figure includes telephone incumbents that own the incumbent cable provider in the same area and, thus, are not video entrants.²⁰ The NTCA believes that those members without any video plans primarily serve low-population rural areas where they do not face competition from cable providers.²¹

The development of competitive video alternatives over the past decade has been significant. In 1996, only one out of ten customers purchased MVPD services from a competitor to the incumbent cable television operator. Today, that number is one out of three.²² However, the non-DBS alternatives to cable television still account for less than four percent of MVPD subscribers, or only about 3.7 to 3.9 million subscribers. While cable

¹⁸ *AT&T Satisfied with Progress in Video Rollout*, COMM. DAILY, Feb. 28, 2008, at 9-10.

¹⁹ Canfield, Tr. at 117; *see also* Nat. Telecomm. Coop. Ass’n, *NTCA 2007 Broadband/Internet Availability Survey Report*, at 4, 12 (Sept. 2007), *available at* <http://www.usdoj.gov/atr/public/workshops/telecomm2007/submissions/228008.htm> (“*NTCA Broadband Survey*”).

²⁰ *See* Section 652(a)-(d) of the Telecommunications Act of 1996, *codified at* 47 U.S.C. § 572, requiring separation of the incumbent telephone and cable systems in the same geographic area, with exceptions for rural areas or areas with few subscribers.

²¹ Canfield, Tr. at 117-18.

²² Comments of the Nat’l Cable & Telecomm. Ass’n, *In the Matter of Review of the Commission’s Program Access Rules and Examination of Programming Tying Arrangements*, FCC MB No. 07-198, at 3 (filed Jan. 4, 2008) (“*NCTA Program Access Comments*”).

television's market share has fallen to 67 percent, cable's share of MVPD subscribers still exceeds 75 percent in 52 out of 210 Designated Market Areas ("DMAs").²³ In November 2007, the FCC concluded that "[i]ncumbent cable operators are still by far the dominant force in the MVPD business, with . . . the ability to impose steadily rising prices."²⁴

II. Local Telephone Services

Prior to the 1996 Act, local exchange telephony was a legal monopoly in many states; however, the market-opening provisions of the 1996 Act and regulation by the FCC and the states have fostered the development of substantial competition in many local voice markets.

The most significant development in residential local telephone service competition has been entry by cable operators and other facilities-based landline providers, through the offering of either stand-alone cable telephony or bundles of telephony, video, and broadband Internet access. At this time, most of this competition is provided by the cable companies, whose entry is generally limited to the video franchise areas where they own networks.

The FCC collects information from both ILECs and competitive local exchange carriers ("CLECs") on the number of lines they serve, and also collects data on the number of wireless subscribers. This information helps to identify broad market trends and track nationwide share shifts from the incumbent providers to competition.²⁵

²³ FCC Exclusivity Sunset Report & Order, 22 FCC Rcd at 17,827-28, n.277.

²⁴ Report and Order and Further Notice of Proposed Rulemaking, *In the Matter of Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments*, FCC MB No. 07-51, 22 FCC Rcd 20,235, 20,251 (rel. Nov. 13, 2007) ("FCC MDU Exclusivity Report & Order").

²⁵ In its public reports, the FCC must aggregate data to preserve the confidential information of the reporting firms, so FCC data cannot be used to evaluate the market position of individual competitors, but only broader categories of providers.

FCC data show that, as of March 2008, 95.2 percent of U.S. households (or 112.2 million households) purchased some type of telephone service.²⁶ More than 80 percent of those households had telephone service provided over a landline connection as of December 2007;²⁷ the remainder depended solely on wireless phones.

The evidence indicates that there has been substantial entry in video and local telephony. Cable companies are able to offer telephone services to more than 80 percent of households. In addition, cable companies face competition in the provision of MVPD services from DBS providers, broadband service providers ("BSPs"), and now telephone companies building fiber-based networks. Although the degree and type of entry have varied from place to place, entry generally has resulted in increased quality and wider choices for consumers. Consumers in many areas are offered faster and better Internet broadband access and improvements in the quality and variety of video programming. Companies are offering more HD and other channels, new equipment, and other features designed to improve customer experience.

There was substantial disagreement as to whether consumers were seeing lower prices as a result of the telephone companies' entry into video services. Verizon asserted that consumers were paying lower prices as a result of wireline competition in video services,

²⁶ Industry Analysis and Tech. Division, Wireline Competition Bureau, F.C.C., *Telephone Subscribership in the United States*, at Table 1 (August 2008) ("*FCC Telephone Subscribership Report*").

²⁷ Industry Analysis and Tech. Division, Wireline Competition Bureau, F.C.C., *Local Telephone Competition: Status as of December 31, 2007*, at Table 2 (Sept. 2008) ("*FCC Local Telephone Competition Report*").

citing various government and industry studies.²⁸ Verizon points to several economic studies estimating annual benefits from telephone company entry into video markets ranging between \$6 and \$14 billion based on evidence from past entry by overbuilders.²⁹ It also observed that cable price inflation appeared to be slowing.³⁰ In addition, it cited a 2006 FCC finding that cable rates were 17 percent lower in the relatively few areas where a multisystem cable operator (“MSO”) faced competition from a wireline overbuilder than elsewhere, and a 2005 Government Accountability Office (“GAO”) study similarly finding that cable rates were 16 percent lower where an MSO faced wireline overbuilder competition.³¹ Another 2006 study cited by Verizon predicated a 14 percent decrease in price from telephone company entry into video.³² Further, Verizon pointed to a January 23, 2006, Bank of America report that found in areas where Verizon has been rolling out its FiOS FTTH network, the cable MSOs responded with targeted price cuts of 28 to 42 percent.³³

From the facilities-based telephony competition, Cox cited a 2007 NCTA study finding that residential telephone consumers could save an average of \$135 or more per year, and small business customers could save \$500 or more per year, as a result of cable competition. In combination, on a nationwide basis, these two groups could save more than

²⁸ *Verizon Submission*, at 4-5; Hal J. Singer, Criterion Economics, “The Consumer Benefits of Telco Entry in Video Markets,” 2007 DOJ Telecommunications Symposium, Nov. 29, 2007, at 5-8 (“*Singer Presentation*”).

²⁹ *Singer Presentation*, at 2.

³⁰ *Id.* at 4.

³¹ *Singer Presentation*, at 7.

³² *Id.* at 10.

³³ *Id.* at 8.

\$100 billion over the next five years.³⁴

III. The Competitive Strategy of Bundling

According to Verizon, cable companies facing competition from FiOS have responded by lowering their prices for the bundle of services that include telephony, broadband Internet access, and cable services.³⁵ For example, in Richmond, Virginia, Comcast reportedly cut the price for its own triple-play bundle by \$31 just a few months before Verizon rolled out its FiOS service there; in other areas where FiOS entered, Comcast refrained from raising prices as it had historically done.³⁶ In addition, Verizon reported that Comcast cut its prices in the Philadelphia area in response to Verizon's entry, reducing the price of its triple-play bundle by \$25 per month in August 2006 as Verizon prepared to enter, and then by another \$27 in November 2006 after Verizon's launch.³⁷

Recent trends in video competition highlight the growing importance of bundling telephony, broadband Internet access, and video programming services. Many providers, including telephone companies, cable companies, and CLECs, made clear the significant role that bundles play in their competitive strategies, both in attracting customers and reducing churn, as well as taking advantage of network economics. In addition, evidence presented showed that a growing number of consumers are choosing bundled plans. It was less clear,

³⁴ Michael D. Pelcovits & Daniel E. Haar, Microeconomic Consulting & res. Assocs. Inc., *Consumer Benefits from Cable-Telco Competition* (updated Nov. 2007) ("*Consumer Benefits from Cable-Telco Competition*").

³⁵ *Verizon Submission*, at 3-7.

³⁶ *Id.* at 7.

³⁷ *Id.* at 6.

however, whether consumers purchase bundles solely to take advantage of the discounted prices or also view these offerings as providing additional benefits (such as having a single bill or provider).

As of 2006, one study found that 46 percent of U.S. households subscribed to bundles of two or more services and 11 percent to three or more.³⁸ A 2007 study found that 64 percent of U.S. households receive two or more services (excluding long distance, which is already widely bundled with local telephone service) from the same provider.³⁹ Another study found that 54 percent of consumers were already purchasing multiple services from a single provider in 2006 and forecast 76 percent would purchase multiple services from the same provider by the end of 2007.⁴⁰ These bundles typically consisted of broadband Internet service, in which the cable and telephone incumbents have already been competing for several years, paired with either the cable incumbent's video service or the telephone incumbent's voice service. Now that cable companies have widely entered telephone service markets with VoIP and telephone incumbents are beginning to enter video on a wireline basis, triple-play bundle from a single provider today, that share is rapidly growing, with some companies now reporting 30 percent or more of their customers taking all three services.

According to Verizon, "a large and increasing number of consumers" prefer to

³⁸ *Verizon Supp. Submission*, at 11.

³⁹ *Id.*

⁴⁰ *Id.*

purchase voice, video, and broadband Internet services on a bundled basis from a single provider for the convenience of a single bill and one-stop shopping, and for the discounts.⁴¹ The cable companies offered similar perspectives on the importance of bundling. Nationwide, they are better positioned to offer a wireline triple-play bundle than are the incumbent telephone carriers, because cable telephony is available to more homes than are Verizon's or AT&T's video services.⁴² Cox has made telephone and broadband available to nearly 100 percent of its customer base. At the end of 2007, 62 percent of its customers, a total of 3.7 million, were purchasing bundled services.⁴³ As of November 2007, Charter had 2.5 million customers (out of its 5.7 million video customers) purchasing bundles of two or more services.⁴⁴

To the extent bundling is preferred by consumers, providers that cannot offer a full bundle over their own facilities may be able to mitigate the impact through service partnership. DirecTV offers broadband and voice packages that it provides through arrangements with other carriers, primarily telephone companies. The telephone companies gain the ability to sell video bundled with their DSL and voice services where they cannot provide video over their own networks.⁴⁵

⁴¹ *Id.*

⁴² See Wilson, Tr. at 90; see *FCC Telephone Subscribership Report*.

⁴³ Press Release, Cox Communications, Greater than 62% of Cox Customers Now Bundling Services, Feb. 13, 2008, available at <http://phx.corporate-ir.net/phoenix.zhtml?c+76341&p=irol-newsArticle&t=Regular&id=1107954> ("Cox Press Release").

⁴⁴ Written Comments of Grier Raclin on Behalf of Charter Communications Inc., for inclusion in the 2007 DOJ Telecommunications Symposium, Nov. 29, 2007, at 2-3 ("*Charter Submission*").

⁴⁵ Grayer, Tr. at 274.

Broadband over power line providers also have limited ability to respond to bundling. Current offers only broadband Internet access, along with the potential for customers to use VoIP telephone services over broadband, but it does not provide a full multichannel video service comparable to the cable or telephone companies.⁴⁶

The experience of the satellite and broadband over power line ("BPL") providers demonstrate that companies unable to offer a full bundle on their own either: (1) price below competitors so as to offer consumers the opportunity to assemble their own service bundles; or (2) differentiate their products based on quality, offering features attractive to particular customers or a wider range of offerings to make their services attractive on a stand-alone basis. In addition, these providers will partner with other companies to enable them to offer a bundle. These partnership will become increasingly less attractive, however, if the providers offering a triple play over their own networks succeed in integrating their services in ways that non-integrated providers cannot. Bundling has the potential to become an even more significant competitive strategy to the extent firms can integrate services and thereby further differentiate themselves from rivals.

IV. Conclusions on Competitive Entry

Overall, the competitive trend in telecommunications services are positive. Companies continue to invest significant sums to build new facilities or upgrade existing ones, providing customers with better services and more choices. Landline facilities-based competition is available for most U.S. consumers in broadband and telephony and is

⁴⁶ Brendan Herron, CURRENT Group, LLC, "Broadband Overview," 2007 DOJ Telecommunications Symposium, Nov. 29, 2007, at 4 ("*Herron Presentation*").

beginning to spread in video as well. However, the extent and nature of competition varies substantially from one geographic area to another. While the available data make it possible to evaluate broad nationwide trends, it is considerably more difficult to evaluate the state of competition in any specific area.

The principal competitive alternative to the incumbent cable television companies remains satellite-based DBS services. In an increasing number of areas, wireline MVPD competition is also available from telephone companies or overbuilders, though this option so far is available to only a small minority of U.S. residential consumers. Consumers today are able to purchase video services that offer higher quality pictures, more channels, and other features. These improvements are in part a direct result of the entry of MVPD providers to challenge the cable companies. It is more difficult to draw definitive conclusions from the available information regarding the price benefits of competitive entry that has occurred in video services. Whether price benefits have been realized by consumers, and to what extent, may depend on various factors, including how to assess the value of quality improvements that have accompanied price increases and whether consumers value bundled services. There is evidence that competitive entry has resulted in lower prices for some consumers, particularly bundled service users, even as other stand-alone prices have remained the same or continued to increase. Variations in offerings, the availability of special promotions, and other factors make such assessments complex.

Competition for residential consumers occurs primarily between the ILECs and cable companies. In some areas, however, competition is supplemented by facilities-based

overbuilders or companies that obtain last-mile connections from the incumbent telephone companies. Local telephone subscribers in many areas continue to experience increase choices, notwithstanding the loss of UNE-P as a mode of entry. The success of cable operators is the best evidence that facilities-based competition is economically feasible for residential telephone service, at least for operators that have made the investment in wireline connections to the home that can be used to provide multiple services.

A potentially important competitive development in the marketing and pricing of telephony, broadband, video, and wireless has been the offering of “triple-play” bundled services. These bundles, at least initially, have been priced attractively for many consumers compared with stand-alone services of the same provider, and they have reduced customer churn. Increasing numbers of consumers have been subscribing to triple-play bundles of video, voice telephony, and broadband. Some providers reported that more than 30 percent of their subscribers buy triple-play bundles. It is not yet clear how bundling of services will impact competition and consumer welfare.

V. The Significant Factor of PEG Access on a Highly Competitive Marketplace

As the deployment of new cutting-edge services develops, increased competition between video programming distributors and cable service distributors for video customers will also increase. Vigorous rivalry in the video marketplace can only be a good thing. A highly competitive video marketplace can mean reductions in prices to the consumer, and increases in the quality of provided services. Reduction in prices should not, however, mean a reduction in quality.

The New Orleans City Council's Cable and Telecommunications Committee supports true competition in the video marketplace. However, true competition mandates that all video providers provide public, educational and government ("PEG") access programming. Section 611 and 621 of the Communications Act allow local franchising authorities ("LFAs") to require cable operators to set aside channels for public, education, or governmental use. PEG channels are permitted, but not mandated by federal law. Rather the decision to require the carriage of PEG channels is one made solely by the LFA.

Under the Communications Act, LFAs may impose reasonable franchise obligations to support PEG. Under Section 611, an LFA may require that channel capacity be designated for public, educational, or governmental use, may require rules and procedures for the use of the PEG channels, and may enforce any franchise requirements regarding the providing or use of the channel capacity which relates to PEG.⁴⁷

True competition can only exist where all providers (both video and cable) are required to provide the same services at affordable prices. Existing cable operators currently provide the LFAs' required PEG support and channels. Likewise, incoming video programming distributors should also be required to provide PEG support and channels of quality equal to that provided by incoming cable operators. True competition only exist if each and every provider offers the same product to the consumers. However, with respect to AT&T's introduction of its U-Verse system, this did not happen. In its U-Verse cable service, AT&T delivers PEG programming in a manner that is different from its delivery of

⁴⁷ 47 U.S.C. 531.

commercial channels. The service offers PEG programming via an Internet-based video stream at a single channel location and requires the viewer to load PEG programming through a series of menus. This method of PEG delivery results in a slow reception and a technologically inferior product compared to how commercial channels are delivered over the U-Verse service. Examples of a technologically inferior product can be seen through inferior picture quality, lack of closed captioning or second audio programming, incompatibility with programmable recording devices, and an absence of program listings for PEG programs.

Cable systems both large and small have historically carried PEG channels in an equivalent manner with commercial and other non-commercial channels. As a new competitor to cable, Verizon has done the same. AT&T's U-Verse system, however, has failed to meet the needs of local programmers. In order to achieve true competition, every operator and distributor competing in the marketplace should provide a quality PEG product.

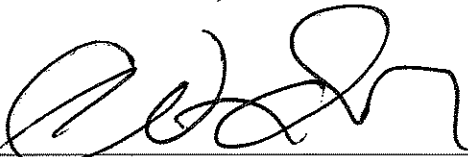
Conclusion

The marketplace for delivery of video programming has changed profoundly in the last decade. Multichannel video programming delivery is now characterized by high competition among entrants. Consumers can, and do, switch among comparable sources of video programming. Advances in technology at affordable prices is the key in increasing subscribership and thus, market competition. Further, vigorous rivalry among competitors is good for the consumers by reducing costs. However, the reduction of costs should not compromise standards in quality. True competition can only exist if: 1) video service

providers are subject to the same PEG access requirements imposed on cable operators, and
2) every competing service provider (video or cable) provides a quality product.

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